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OFFICE OF PETITIONS

In re Patent No. 6,950,600
Issue Date: September 27, 2005
Application No.: 09/840,334
Filed: April 23, 2001
Attorney Docket No.:

ON PETITION

This is a decision on the petition, first filed March 22, 2010, under 37 CFR 1.378(b) to accept the unavoidably delayed payment of the 3.5-year maintenance fee for the above-identified patent. The instant petition will also be treated as a petition under 37 CFR 1.378(c) to accept unintentionally delayed payment of the 3.5-year maintenance fee.

The petition under 37 CFR 1.378(c) is **GRANTED**.

The petition under 37 CFR 1.378(b) is **DISMISSED AS MOOT**.

TREATMENT UNDER 37 CFR 1.378(c)

The patent issued September 27, 2005. The grace period for paying the 3.5-year maintenance fee expired at midnight September 27, 2009. Therefore, since the petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the 3.5-year maintenance fee of \$980.00 along with the surcharge of \$1640.00 was received on March 22, 2010, and is accepted. The above-identified patent is hereby reinstated as of the mail date of this decision.

It is noted that 37 CFR § 1.378(c) requires a statement that the entire delay between the date the 3.5-year maintenance fee was due and the date a grantable petition was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR § 1.378(c). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

TREATMENT UNDER 37 CFR 1.378(b)

It is noted that petitioner used the form for a petition under 37 CFR 1.378(b) and made some intimation that the delay in paying the 3.5-year maintenance fee was unavoidable. It is further noted, however, that petitioner paid the surcharge of \$1,640.00 required under 37 CFR 1.378(c). As the showing made in the petition did not rise to evidentiary level required for a

petition under 37 CFR 1.378(b) and petitioner paid the surcharge for a petition under 37 CFR 1.378(c), the petition was considered and is granted under 37 CFR 1.378(c). Accordingly, there is no relief that can be provided by a petition under 37 CFR 1.378(b); the petition is, therefore, dismissed as moot.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

A handwritten signature in cursive script, appearing to read "Kenya A. McLaughlin".

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions